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EXAMINER	
NGUYEN, THONG Q	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FANG LEI

Appeal 2008-2862
Application 10/764,908
Technology Center 2800

Decided: November 26, 2008

Before CHARLES F. WARREN, CATHERINE Q. TIMM, and JEFFREY T. SMITH, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

DECISION ON APPEAL

Applicant appeals to the Board from the decision of the Primary Examiner finally rejecting claims 1, 3, 5 through 9, 11 through 14, 16, and 17 in the Office Action mailed January 24, 2007. 35 U.S.C. §§ 6 and 134(a) (2002); 37 C.F.R. § 41.31(a) (2007).

The appeal was heard October 21, 2008.

We reverse the decision of the Primary Examiner.

Claim 1 illustrates Appellant's invention of an image transmission system, and is representative of the claims on appeal:

1. Image transmission system for rigid endoscopes and similar viewing tubes with a center rod lens and two outer rod lenses, which are symmetrical to one another with respect to a center plane of the image transmission system that is perpendicular to the optical axis of the image transmission system, wherein

all lens elements consist in each case of optically homogeneous material,

all optically active surfaces are spherical,

the center rod lens consists of a rod lens main element and lens elements cemented to it, resulting in a biconvex connecting rod lens, and

the outer rod lenses are biconvex, wherein

the rod lenses are vertex-to-vertex adjacent to one another and

the center rod lens is essentially of the same length as, or longer than, the length of each of the outer rod lenses.

The Examiner relies upon the evidence in these references (Ans. 3):

Takahashi (Takahashi '846)	US 5,743,846	Apr. 28, 1998
Takahashi (Takahashi '015)	JP 61-20015 A	Jan. 28, 1986

Appellant requests review of the ground of rejection under 35 U.S.C. § 103(a) advanced on appeal: claims 1, 3, 8, 9, 11 through 14, 16, and 17 over Takahashi '015 in view of Takahashi '846; and claims 1, 5 through 9, 11 through 14, 16, and 17. App. Br. 3;[1] Ans. 3 and 7.

The dispositive issue in this appeal is whether Appellant has established that Takahashi '015 does not disclose an image transmission system with a center rod lens and two outer rod lenses in which "the rod lenses are vertex-to-vertex adjacent to one another" as claimed.

[1] We have numbered the pages in the Appeal Brief.

The dispositive issue thus entails the interpretation of the claim language "the rod lenses are vertex-to-vertex adjacent to one another" by giving the terms thereof the broadest reasonable interpretation in their ordinary usage in context as they would be understood by one of ordinary skill in the art in light of the written description in the Specification unless another meaning is intended by Appellant as established therein, and without reading into the claim any disclosed limitation or particular embodiment. *See, e.g., In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004), and cases cited therein; *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997).

The plain language of claim 1 specifies that each of the center rod lens and the two outer rod lenses is biconvex. The outermost point of the arc of a biconvex lens is the vertex of the lens. Appellant discloses in the Specification "the rod lenses are *directly* (vertex-to-vertex) adjacent to one another" and we find this arrangement illustrated in Specification Figure 1. Spec. 5 and 5-6, ¶¶ 00018 and 00023 (emphasis supplied). Thus, we agree with Appellant's contention, relying on Specification ¶ 00018, that "[t]he term 'vertex-to-vertex' is used in the present application much like the word 'end-to-end' would be" with adjacent vertexes contacting each other, and not with the Examiner's contention the language does not mean the adjacent vertexes of the lens elements are "in contact with each other." Reply Br. 8-9; *see* Ans., e.g., 4 and 14.

There is no dispute Takahashi '015 Figure 4 would have disclosed to one of ordinary skill in this art an image transmission system with biconvex center rod lens and two outer rod lenses in which the adjacent vertexes are

not in contact with each other. Ans., e.g., 3-4; Reply Br. 8-9. Thus, as Appellant points out, the rod lenses are not "vertex-to-vertex adjacent to one another" as claimed. Reply Br. 8-9. The Examiner has not established that one of ordinary skill in this art would have modified the image transmission system of Takahashi '015 by arranging the rod lenses so that the vertexes are in contact. See Ans., e.g., 3-4.

Accordingly, we reverse the grounds of rejection under 35 U.S.C. § 103(a).

The Primary Examiner's decision is reversed.

REVERSED

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